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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/758,090

01/16/2004

Edward Joseph Gallagher

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7590

12/17/2008

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USPTO CUSTOMER NO WITH IBM/SVL

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WASHINGTON, DC 20037

EXAMINER

STACE, BRENT S

ART UNIT

PAPER NUMBER

2161

MAIL DATE

DELIVERY MODE

12/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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| <p align="center">Advisory Action Before the Filing of an Appeal Brief</p> | <p>Application No. 10/758,090</p> | <p>Applicant(s) GALLAGHER ET AL.</p> | |
| | <p>Examiner BRENT STACE</p> | <p>Art Unit 2161</p> | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-22.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161

Continuation of 11. does NOT place the application in condition for allowance because: The incorporation of Claim 22 in to Claim 1 (and 9 and 10) could be entered. However, the incorporation of Claim 22 in to Claim 11 cannot be entered since the entire subject matter of Claim 11 is different that the subject matter of Claims 1, 9 and 10. Thus, the incorporation of Claim 22 in to Claim 11 has not previously been considered, and further search and consideration is needed to determine proper patentability of Claims 11+. As such, the amendment as a whole should not be entered.

The applicant's submitted the argument that Claim 22 ("wherein the type of the item, which specifies a data structure of the item, comprises a combination of attributes associated with the item") is not taught by the Sadiq reference. Upon reconsideration and further reading of Sadiq and the response to arguments made in the last Final Office action, the examiner respectfully disagrees.

The subject matter and argument of Claim 22 can be broken into two separate arguments below:

First is "the type of the item/object/row specifies a data structure of the item/object/row." For the examiner, the prior relation of Sadiq to the claims that type of item = attribute data type appears to not sufficiently map to this limitation. However, the prior office action set forth a different relation garnered from the Office action before that where type of item = changed data (type is dirty/changed). In this mapping of Sadiq to the claims, the data specifies a data structure of the item in that the data to change is put into data structure 56 (specifying a data structure. Additionally, the data structure is defined by a certain number of bytes/bits stored on a computer, thus specifying a data structure stored.

Second is "the type of the item/object/row...comprises a combination of attributes/columns associated with the item/object/row." An item/object/row is made up of attributes/columns (hence, the item is a combination of attributes/columns associated with the item/object/row). The type of the item (being changed data) is put into the data structure 56 to eventually update a legacy database. Sadiq col. 6, lines 13-16 (cited in the last Final Office action as an alternate interpretation for type of item, and later parts of col. 6 relating to this citing cited in the Office action of 5/19/08) states "all related object identifiers are included in the data structure 56 of name value pairs along with all other attributes that have been changed." This changed data (type of item) name value pairs are combinations of attributes associated with the item.